

PATENT  
05-10022

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of:

Randi L. Black (previously Randi L. Schindler)

RECEIVED  
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Serial Number: 09/152,992

Examiner: Brown, Michael A.

MAR 28 2005

Filed: 9/14/1998

Art Unit: 3733

For: PROSTHETIC DEVICE

Mail Stop PETITIONS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RECEIVED  
MAR 30 2005  
OFFICE OF PETITIONS

**RENEWED PETITION TO REVIVE UNINTENTIONALLY  
ABANDONED APPLICATION AND VERIFIED RESPONSE**

Dear Sir or Madam:

In response to the Notice of Abandonment mailed on November 9, 1999 in the subject application, please note the following:

I, David L. Hoffman, declare and state the following:

1. I am and have been a registered patent attorney for almost twenty years.
2. I represent the inventor Ms. Randi L. Black, whose declaration is concurrently submitted herewith. ("Black Decl.")
3. Ms. Black filed in the U.S. Patent & Trademark Office ("PTO") the subject application on or about September 18, 1998 using the law firm of Kleinberg, Lerner et al ("KL").
4. A first official action was issued August 12, 1998 and Ms. Black promptly mailed an Amendment and Response on December 17, 1998, again using the KL firm.

**Application No. 09/152,992  
Renewed Petition to Revive**

5. A second, final official action was issued on March 16, 1999. Ms. Black intended to again respond in a timely and proper manner. (Black Decl., ¶2).
6. The KL firm did not timely respond and a Notice of Abandonment (Exhibit A) dated November 9, 1999 was issued to the KL firm.
7. On March 31, 2000, the KL firm filed a Petition To Revive For Unintentional Delay (Exhibit B) and included a Response to Final Office Action (Exhibit C), along with the petition fee of \$605.00 dollars (Exhibit D).
8. Ms. Black understood that everything that needed to be done to keep the application pending was done. (Black Decl., ¶3).
9. In December 2001, Ms. Black had her patent application file transferred from KL to the law firm of Lyon & Lyon LLP. (Black Decl., ¶4). On or about December 18, 2001, Ms. Black executed a Revocation of Power of Attorney and Appointment of New Attorney, and on December 20, 2001 mailed it with a transmittal letter to the PTO, using Lawrence R. LaPorte, Reg. No. 38,948, of Lyon & Lyon. (Exhibit E)
10. On or about January 16, 2002, Mr. LaPorte mailed a Status Inquiry (Exhibit F) to the PTO.
11. Effective on or about August 31, 2002, the relatively large firm of Lyon & Lyon LLP dissolved. Undoubtedly, the PTO received substantial filings related to that event, e.g., Substitutions of Power of Attorney, changes of mailing address, etc.
12. Ms. Black continued to investigate the status of her application with the assistance of her husband, David Black, Esq., who obtained the file from Lyon & Lyon and filed another status inquiry. (Black Decl., ¶5).
13. In April 2004, Ms. Black contacted Larry I. Schwartz of the PTO Customer

Application No. 09/152,992  
Renewed Petition to Revive

Service Center, and was surprised to learn that the status of the application was abandoned. Mr. Schwartz faxed her a copy of the November 1999 Notice of Abandonment. (Black Decl., ¶6).

14. I have reviewed the contents of the file on Ms. Black's patent application, and no response from the PTO to the Petition to Revive filed by the KL firm can be found. Accordingly, I conclude that the PTO never properly responded to the Petition, and/or the PTO's response was never received by Ms. Black's counsel.

15. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional.

My review of the file indicates that supplementation of the pending Petition for Revival is required. Therefore, enclosed herewith are the following:

- i) A request for a three month extension of time as a small entity;
- ii) the appropriate fee of \$510.00 for the extension;
- iii) Request for Continued Examination (RCE) as a response to the outstanding final action;
- iv) RCE fee of \$395.00;
- v) an amendment, which would have been responsive to the outstanding official action;
- vi) an Information Disclosure Statement with form 1449 and cited references;
- vii) Declaration of Ms. Black as to the entire delay being unintentional;
- viii) Declaration and Power of Attorney from Ms. Black;
- ix) Copy of Revocation of previous powers of attorney and grant of new power; and

Application No. 09/152,992  
Renewed Petition to Revive


x)

Upon revival of the subject application, processing of the CPA and preliminary amendment are respectfully requested.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

LAW OFFICES OF DAVID L.  
HOFFMAN



David L. Hoffman  
Reg. No. 32,469

Date: March 25, 2005

Encls.

LAW OFFICES OF DAVID L. HOFFMAN  
27023 McBean Parkway, Ste. 422  
Valencia, CA 91355  
Tel: (661) 775-0300  
Fax: (661) 259-1255

4

Application No. 09/152,992  
Renewed Petition to Revive

### CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being faxed to the United States Patent and Trademark Office at (703) 872-~~8306~~<sup>9306</sup> on the date indicated above to addressed to the following:

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on

3/28/05

David L. Hoffman, Reg. No. 32,469

Date

3-28-05

Or

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on

David L. Hoffman, Reg. No. 32,469

Date

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MAR 28 2005

PLEASE ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

- (1) Postcard
- (2) AMENDMENT AND RESPONSE TO OFFICE ACTION DATED 11/12/98

Applicant: RANDI SCHINDLER  
Title: PROSTHETIC DEVICE  
Our Docket No: B045  
Date Mailed: 12/17/98

PLEASE ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

- (1) Postcard
- (2) AMENDMENT AND RESPONSE TO OFFICE ACTION DATED 11/12/98

Applicant: RANDI SCHINDLER  
Title: PROSTHETIC DEVICE  
Our Docket No: B045  
Date Mailed: 12/17/98



RECEIVED  
CENTRAL FAX CENTER  
MAR 28 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of:

Randi L. Black (previously Randi L. Schindler)

Serial Number: 09/152,992

Examiner: Brown, Michael A.

Filed: 9/14/1998

Art Unit: 3733

For: PROSTHETIC DEVICE

Mail Stop *Petitions 09-3-2005*  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF RANDI L. BLACK IN SUPPORT OF  
RENEWED PETITION TO REVIVE UNDER 37 C.F.R. §1.137**

I, Randi L. Black, formerly Randi L. Schindler, declare as follows:

1. I am the sole inventor in the subject application, which I filed in the U.S. Patent & Trademark Office ("PTO") on or about September 18, 1998 using the law firm of Kleinberg, Lerner et al ("KL").

2. A first official action was issued August 12, 1998 and I promptly mailed an Amendment and Response on December 17, 1998, again using the KL firm. A second, final official action was issued on March 16, 1999 and I instructed the KL firm, and specifically Mr. Michael Hurey, Esq., to file a response again.

3. Mr. Hurey requested \$605 dollars from me and advised that he would file an amendment, per my request. I understood that everything that needed to be done to keep the application pending was done.

4. In December 2001, I had my patent application file transferred from KL to the law firm of Lyon & Lyon LLP to investigate the status of the application. Mr. LaPorte filed a status

inquiry with the PTO.

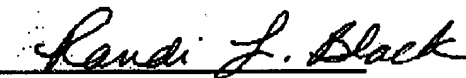
5. In or about August 2002, Mr. LaPorte's firm, Lyon & Lyon LLP, dissolved. I continued to investigate the status of my application with the assistance of my husband, David Black, Esq., who obtained the file from Lyon & Lyon and filed another status inquiry.

6. I made several attempts to determine the status of the application on my own. In April 2004, I contacted Larry I. Schwartz of the PTO Customer Service Center, and was surprised to learn that the status of the application was abandoned. Mr. Schwartz faxed me a copy of the November 1999 Notice of Abandonment.

7. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: March 17, 2005

  
Randi L. Black



## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being faxed to the United States Patent and Trademark Office at (703) 872 9306 on the date indicated above to addressed to the following:

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Alexandria, VA 22313-1450

on

3-28-05

David L. Hoffman, Reg. No. 32,469

Date 3-28-05

Or

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on \_\_\_\_\_

David L. Hoffman, Reg. No. 32,469

Date \_\_\_\_\_

3

## DECLARATION

PATENT  
05-10022

RECEIVED  
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MAR 28 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of:

Randi L. Black (previously Randi L. Schindler)

Serial Number: 09/152,992

Examiner: Brown, Michael A.

Filed: 9/14/1998

Art Unit: 3733

For: PROSTHETIC DEVICE

Mail Stop PETITIONS  
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P.O. Box 1450  
Alexandria, VA 22313-1450

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APR 08 2005  
OFFICE OF PETITIONS

**RENEWED PETITION TO REVIVE UNINTENTIONALLY  
ABANDONED APPLICATION AND VERIFIED RESPONSE**

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Application No. 09/152,992  
Renewed Petition to Revive

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Application No. 09/152,992  
Renewed Petition to Revive

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- ii) the appropriate fee of \$510.00 for the extension;
- iii) Request for Continued Examination (RCE) as a response to the outstanding final action;
- iv) RCE fee of \$395.00;
- v) an amendment, which would have been responsive to the outstanding official action;
- vi) an Information Disclosure Statement with form 1449 and cited references;
- vii) Declaration of Ms. Black as to the entire delay being unintentional;
- viii) Declaration and Power of Attorney from Ms. Black;
- ix) Copy of Revocation of previous powers of attorney and grant of new power; and

Application No. 09/152,992  
Renewed Petition to Revive

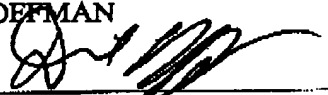
x)

Upon revival of the subject application, processing of the CPA and preliminary amendment are respectfully requested.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

LAW OFFICES OF DAVID L.  
HOFFMAN

  
David L. Hoffman  
Reg. No. 32,469

Date: March 25, 2005

Encls.

LAW OFFICES OF DAVID L. HOFFMAN  
27023 McBean Parkway, Ste. 422  
Valencia, CA 91355  
Tel: (661) 775-0300  
Fax: (661) 259-1255

Application No. 09/152,992  
Renewed Petition to Revive

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being faxed to the United States Patent and Trademark Office at (703) 872-~~88~~<sup>98</sup>06 on the date indicated above to addressed to the following:

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on

3/28/05

David L. Hoffman, Reg. No. 32,469

Date

3-28-05

Or

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on

David L. Hoffman, Reg. No. 32,469

Date

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MAR 2 8 2005

Our Ref.: 775403.11045

#8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of )

Randi Schindler )

Serial No.: 09/152,992 )

Filed: 9/14/1998 )

For: )

Examiner: Brown

Art Unit: 3733

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MAR 3 0 2005

OFFICE OF PETITIONS

PETITION TO REVIVE FOR UNINTENTIONAL DELAYHonorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

Dear Sir:

Applicant hereby petitions, pursuant to 37 C.F.R § 1.137(b) and MPEP § 711.03(c) to revive the present application. A notice of abandonment for the present application was mailed on November 9, 1999. Applicant seeks to revive the application on the grounds of unintentional delay.

Applicant hereby states, pursuant to 37 C.F.R § 1.137(b) (3) that the delay was unintentional.


Applicant is filing herewith a response to the office action which was mailed on March 16, 1999. Applicant requests that the response be considered by the Examiner.

- 1 -

Ex. B

Applicant is submitting herewith a check in the amount of  
\$605.00 to cover the petition fee as required by 37 C.F.R.  
§ 1.17(1).

Dated: 3/9/00

  
\_\_\_\_\_  
Michael Hurey  
Reg. No.: 33,513

Michael Hurey  
KLEINBERG & LERNER, LLP  
2049 Century Park East, Suite 1080  
Los Angeles, CA 90067  
(310) 557-1511

MH/al



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MAR 28 2005

Our Ref.: 775403.11045

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of )

Randi Schindler )

Serial No.: 09/152,992 )

Filed: 9/14/1998 )

For: )

Examiner: Brown

Art Unit: 3733

RECEIVED

MAR 30 2005

OFFICE OF PETITIONS

RESPONSE TO FINAL OFFICE ACTIONHonorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

Dear Sir:

This is in response to the final office action mailed on March 16, 1999. Please make the following changes to the present application.

In the Claims

1. (Twice amended) A nipple-cover, said nipple cover being adapted to cover a substantial portion of a human breast, said nipple cover being manufactured from a flexible material and being formed substantially in the shape of a hollow curved surface and having an inner surface and an outer surface, wherein

- 1 -

EXC

said outer surface is substantially smooth, and wherein said inner surface has disposed thereon [an] a series of concentric adhesive [means] strips for connecting said nipple cover to a human body.

Please cancel claims 9 and 10.

## REMARKS

Claims 1-10 are pending in the present application. Applicant has amended claim 1, the only remaining independent claim. Reconsideration and re-examination of all pending claims are respectfully requested.

The Examiner has rejected all pending claims under 35 U.S.C. §§ 102 and 103, based on various combinations of Nakai, Larsson, Wroten and Lee. Applicant respectfully disagrees with the Examiner's contentions and suggests that the present invention is not anticipated, nor is it obvious in light of the cited references.

Applicant has amended claim 1, which is the only independent claim in the application. Applicant has amended the claim to indicate that the nipple cover is of a size so as to substantially cover a human breast. This feature is not taught by the prior art. For example, the device in Lee is of such a size that it only covers a user's nipple, and the immediately surrounding area. Applicant has also amended claim 1 to indicate that the device of the present invention is secured to the user by a series of concentric adhesive strips. This feature is also not taught in the cited prior art.


///


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///

For the foregoing reasons, Applicant suggests that all pending claims are now in condition for allowance. Such action is earnestly solicited at the earliest possible date.

Dated: 3/3/00

  
Michael Hurey  
Reg. No.: 33,513

 Michael Hurey  
KLEINBERG & LERNER, LLP  
2049 Century Park East, Suite 1080  
Los Angeles, CA 90067  
(310) 557-1511

MH/al

CERTIFICATE OF MAILING

I hereby certify that the foregoing papers, Petition to Revive for Unintentional Delay and Response to Office Action and every paper referred to therein as being enclosed is being deposited with the U.S. Postal service as first class mail, postage prepaid, in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, DC 20231, on March 31, 2000.

Helen M. Benninger  
Helen M. BENNINGER

**KLEINBERG & LERNER, LLP**  
ATTORNEYS AT LAW

4683

DATE	DESCRIPTION	INVOICE #	AMOUNT	CHECK DEDUCTION	NET AMOUNT
03/31/00	Filing fee for Petition to Revive Patent Application	775403.11405	605.00		605.00

CK DATE 03/31/00	CONTROL NUMBER 4683	TOTALS ▶ Gross:	605.00	Ded:	0.00	Net:	605.00
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**KLEINBERG & LERNER, LLP**  
ATTORNEYS AT LAW  
2049 CENTURY PARK E., STE. 1080  
LOS ANGELES, CA 90067  
PH. (310) 557-1511

CITY NATIONAL BANK  
AVENUE OF THE STARS OFFICE  
LOS ANGELES, CALIFORNIA 90067  
16-1606-1220

4683

DATE 03/31/00 CHECK AMOUNT  
\*\*\*\*\*\$605.00

\*\*\* SIX HUNDRED FIVE & 00/100 DOLLARS

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Honorable Commissioner of  
Patents & Trademarks  
Washington D.C.

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Ex-D

Patent  
Attorney Docket: 270/161

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

BLACK, Randi

Serial No.: 09/152,992

Filed: September 14, 1998

For: PROSTHETIC DEVICE

Group Art Unit: 3735

Examiner: Brown, M.

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MAR 30 2005

OFFICE OF PETITIONS

## TRANSMITTAL LETTER

Box NO FEE  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith for filing in the above-referenced patent is a REVOCATION OF POWER OF ATTORNEY AND APPOINTMENT OF NEW ATTORNEY from Randi Black.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Lyon & Lyon's Deposit Account No. 12-2475.

Respectfully submitted,  
LYON & LYON LLP

Dated: December 20, 2001

By:

Lawrence R. LaPorte  
Reg. No. 38,948

22249

PATENT TRADEMARK OFFICE

LYON & LYON LLP  
633 W. Fifth Street, Suite 4700  
Los Angeles, CA 90071  
Ph: (213) 489-1600  
Fax: (213) 955-0440

LA-221424.1

CERTIFICATE OF MAILING  
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

December 20, 2001  
Date of DepositRick Moreno  
Name of Person Mailing PaperRick Moreno  
Signature of Person Mailing Paper

EXE

RECEIVED  
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MAR 28 2005

Our Ref.: 775403-B045

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of )

Randi Schindler )

Serial No.: 09/152,992 )

Filed: 9/14/98 )

For: PROSTHETIC DEVICE )

Examiner: Michael Brown

Art Unit: 3733

AMENDMENT AND RESPONSE TO OFFICE ACTION

Honorable Commissioner of  
Patents and Trademarks  
BOX NON-FEE AMENDMENT  
Washington, DC 20231

Dear Sir:

This is in response to the office action mailed November 12, 1998. Please make the following changes to the present application:

In the Claims

1. A nipple-cover, said nipple cover being adapted to cover a human breast, said nipple cover being manufactured from a flexible material and being formed substantially in the shape of a hollow curved surface and having an inner surface and an outer surface, wherein said outer surface is substantially smooth, and

- 1 -



wherein said inner surface has disposed thereon an adhesive means for connecting said nipple cover to a human body.

REMARKS

Claims 1-10 are pending in the present application. The Examiner has rejected all pending claims. Applicant has amended independent claim 1. Reexamination and reconsideration of all pending claims is respectfully requested.

The Examiner has rejected claims 1, 5 and 8-9 under 35 U.S.C. § 102. The Examiner states that the present invention is clearly anticipated by Nakai. Applicant submits that the present invention contains elements which are not present in the cited reference. As shown in figure 2, the present invention has the shape of hollow curved surface. The specification also states that present invention is hollow inside. (See page 6, lines 20-23.) Applicant has amended claim 1 to more specifically point out and claim this feature of the present invention. Claims 5 and 8 depend from claim 1, and contain all of the limitations of the base claim. Claim 9 states that the present invention has the shape of a hollow hemisphere.

The shape of the present invention is not taught or suggested by Nakai. The Examiner explicitly concedes this point on page 3 of the office action. The examiner states that "Nakai does not disclose the nipple cover being shaped as a hollow hemisphere . . . ." It is well settled that an invention is

anticipated under Section 102 only if all of the elements of the present invention are present in a single cited reference. Because the device in Nakai lacks an element of the present, it cannot anticipate the claims of the present invention, as amended. Applicant therefore requests that the Examiner's rejection of claims 1, 5 and 8-9 be withdrawn.

The Examiner has rejected Claim 2 under 35 U.S.C. 103 as being an obvious combination of Nakai and Wroten. Claim 2 is a dependent claim which depends from Claim 1. Claim 1 has been amended to indicate that the present invention has the shape of a hollow curved surface. As noted above, Nakai does not teach the shape of the present invention. Wroten similarly does not teach that a nipple cover can have the shape of the present invention.

The device in Wroten is a baby's pacifier. Wroten is cited by the Examiner only for the proposition that the device could be fabricated from flexible plastic material. There is no teaching or suggestion that Wroten could be combined with Nakai as is suggested by the Examiner. The cited combination therefore lacks an element of the present invention. For this reason, applicant requests that the Examiner's rejection of claim 2 under 35 U.S.C. § 103 be withdrawn.

The Examiner has rejected claims 3-4 and 6 under 35 U.S.C. § 103 as being unpatentable over Nakai in view of Larsson. The examiner contends that the nipple cover of Nakai could be fabricated in the shape of a hollow hemisphere as is taught by


Larsson. Applicant respectfully disagrees with the Examiner and suggests that the cited references cannot be combined as suggested by the Examiner.

Applicant has amended Claim 1 to more clearly indicate that the present invention is manufactured from a flexible material. Claims 3-4 and 6 all depend from claim 1. There is no teaching or suggestion in Larsson that the nipple cover could be manufactured from a flexible material. In fact, Larsson actually teaches away from the use of flexible material. Larsson explicitly states at column 2, line 44, that the breast shield is manufactured from a "rigid" material. (Larsson goes on to state that, at most, the breast shield could be manufactured from a "semi-rigid" material.) In fact, the entire purpose of the device in Larsson requires that the breast shield be manufactured from a material which is rigid and not flexible. The breast shield is intended to provide an open space so that clothing or other items do not touch the breast itself. The goal of the breast shield is to prevent chafing or irritation of the breast and nipple. These goals could not be achieved if the breast shield were manufactured from a flexible material. The use of a flexible material would allow the breast shield, clothing or other items to touch the surface of the breast, thereby defeating the purpose of the device. For the foregoing reasons, applicant respectfully requests that the Examiner's rejection of claims 3-4 and 6 under 35 U.S.C. § 103 be withdrawn.

The Examiner has rejected Claims 7 and 10 under 35 U.S.C. § 103(a) as being an obvious combination of Nakai and Lee. Claim 7 is a dependent claim which depends from Claim 1. Claim 1 has been amended to indicate that the present invention has the shape of a hollow curved surface. As noted above, Nakai does not teach the shape of the present invention. Lee similarly does not teach that a nipple cover can have the shape of the present invention. For this reason, Applicant submits that the combination cited by the Examiner would not yield the present invention. For this reason, Applicant respectfully requests that the Examiner's rejection of claims 7 and 10 under 35 U.S.C. § 103 be withdrawn.

Based on the foregoing, applicant respectfully requests that the Examiner approve all pending claims, and that a Notice of Allowance for the present application be issued without any further delay.

Dated: December 17, 1998

  
Michael Hurey  
Reg. No.: 33,513

Michael Hurey  
KLEINBERG & LERNER, LLP  
2049 Century Park East, Suite 1080  
Los Angeles, CA 90067  
(310) 557-1511

**CERTIFICATE OF MAILING**

I hereby certify that this paper and every paper referred to therein as being enclosed is being deposited with the U.S. Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner of Patents & Trademarks, Washington; DC 20231, on December 17, 1998.

  
\_\_\_\_\_  
S. Davis



*Petition to Revoke*

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
 Address: COMMISSIONER OF PATENTS AND TRADEMARK  
 Washington, D.C. 20231

APPLICATION NUMBER 09/152,992	FILING DATE 09/14/98	FIRST NAMED APPLICANT SCHINDLER	ATTORNEY DOCKET NO. R 8045
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MICHAEL HUREY  
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 LOS ANGELES CA 90067

QM12/1109

EXAMINER BROWN, M
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ART UNIT 3761	PAPER NUMBER
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DATE MAILED: 11/09/99

**NOTICE OF ABANDONMENT**

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 3/16/99
- ☐ A reply (with a Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_, which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_
- ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
 (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; or (2) Notice of Appeal).
- ☐ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee (with a Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_
- ☐ The submitted issue fee of \$ \_\_\_\_\_ is insufficient. The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_
- ☐ The issue fee has not been received.
- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability (PTOL-37).
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of \_\_\_\_\_) were received on \_\_\_\_\_
- ☐ The proposed new formal drawings filed \_\_\_\_\_ are not acceptable.
- ☐ No proposed new formal drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

*Michael A. Brown*  
**Michael A. Brown**  
**Primary Examiner**

Ex. A

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MAR 28 2005

LAW OFFICES OF DAVID L. HOFFMAN  
27023 McBEAN PARKWAY, SUITE 422  
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Facsimile (661) 259-1255**Fax to PTO**

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MAIL STOP PETITIONS	Law Offices of David L. Hoffman
<b>Fax:</b> (703) 872-9306	<b>Pages:</b> 27
<b>Phone:</b> (703)	<b>Date:</b> March 28, 2005
<b>Re:</b> Ser./Appl. No.: 09/152,992	EXAMINING ATTORNEY:
Filing Date: September 14, 1998	Group/Law Office: 114
Mark/Invention: PROSTHETIC DEVICE	
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

Dear Sir or Madam:

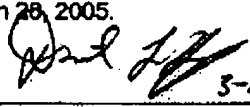
Enclosed herewith are the following:

1. Renewed Petition to Revive Unintentionally Abandoned Application and Verified Response with exhibits; and
2. USPTO Fax Confirmation.

This Renewed Petition was faxed today (confirmation attached) and inadvertently omitted the exhibits. Please add with previously faxed petition.

Certificate of Transmission:

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. (703) 872-9306 on March 28, 2005.

  
3-28-05  
David L. Hoffman, Reg. No. 32,469

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Cover  
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Sent By: LAW OFFICES;		6617759423;		Mar-28-05 10:09AM;		Page 1	
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Re:	(705) 872-8300			Pages:	38		
Phone:	(705)			Date:	March 28/2005		
Re:	Ser. Appl. No.: 09/122,082			EXAMINING ATTORNEY:			
	Filing Date: September 14, 1998			Group/Lead Office:	114		
	Mark/Inventor: PROTHETIC DEVICE						
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Reply							
<p>Dear Sir or Madam:</p> <p>Enclosed herewith is the following:</p> <ol style="list-style-type: none"> <li>1. Request for Continued Examination (RCE) Transmittal</li> <li>2. USPTO Credit Card Payment Form re Filing Fee for Request for Continued Examination 37 CFR 1.17(a)</li> <li>3. Petition for Extension of Time under 37 CFR 1.136(a) and USPTO Credit Card Payment Form re Filing Fee for Petition for Extension of Time under 37 CFR 1.136(a)</li> <li>4. Requested Petition to Revoke Unintentionally Abandoned Application and Verbal Responses</li> <li>5. Amendment and Response</li> <li>6. Declaration of David L. Blah in Support of Requested Petition to Revoke Under 37 CFR 1.137</li> <li>7. Completed Declaration and Power of Attorney</li> </ol>							
<p>PAGE 001 * RCVD AT 3/28/2005 1:14:45 PM [Eastern Standard Time] * SVR:USPTO-EFXXF-1/3 * DNIS:8729306 * CSID:6617759423 * DURATION (mm-ss):11-34</p>							